

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on freedom of religion or belief; and the Special Rapporteur on extrajudicial, summary or arbitrary executions

REFERENCE: UA
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5 November 2014

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on freedom of religion or belief; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 24/7, 22/20, and 26/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the situation of Ms. **Asia Bibi**, a member of the Christian minority from the village of Ittanwali, Punjab Province.

Ms. Bibi was sentenced to death by a court in Nankana, Punjab on blasphemy charges on 8 November 2010 for allegedly insulting the Prophet Muhammad during an argument with a group of women over a pot of water. Her petition for pardon on 20 November 2010 was unsuccessful. The case of Ms. Bibi has already been the subject of two joint urgent appeals sent on 22 November 2010 (see A/HRC/16/53/add.1, case PAK 15/2010) and on 22 March 2012 (case PAK 3/2012). While your Excellency's Government acknowledged the receipt of the joint urgent appeals, we regret that we have not yet received a reply from your Excellency's Government.

According to the information received:

On 16 October 2014, the Lahore High Court Appellate Division rejected Ms. Bibi's appeal and upheld the death sentence on blasphemy charges. She rejected the evidence of her alleged blasphemy as having been fabricated and based on hearsay.

Ms. Bibi was not provided with proper legal counsel to prepare her defence, which was problematic at both district and high court levels, and in particular during the last stage of her trial in 2010. In addition, several sources indicated that the judges of the Lahore High Court Appellate Division may have rejected her appeal out of fear for their security given that the religious groups demanding her execution appeared at the hearing.

Ms. Bibi has been detained since June 2009. Since then, her mental and physical health has reportedly deteriorated.

While we do not wish to prejudge the accuracy of these allegations, or to express an opinion on whether or not the detention of Ms. Bibi is arbitrary, the above-mentioned allegations appear to be in contravention of the right not to be deprived arbitrarily of liberty as set forth in article 9 of the Universal Declaration of Human Rights (UDHR) and of the International Covenant on Civil and Political Rights (ICCPR).

We express grave concern that the death penalty has been imposed against Ms. Bibi for the crime of blasphemy. We would like to bring to the attention of your Excellency's Government that, although the death penalty is not prohibited under international law, it has long been regarded as an extreme exception to the fundamental right to life. Article 6(2) of the ICCPR, acceded to by Pakistan on 23 June 2010, which provides that countries that have not abolished the death penalty may only impose it for the most serious crimes. This provision has consistently been interpreted by the Human Rights Committee to mean that the death sentence may only be imposed in respect of offences that result in the loss of life. The Human Rights Committee (CCPR/C/79/Add.25) noted in its concluding observations on the periodic report under the Covenant that the imposition of the death penalty for crimes that do not result in the loss of life is incompatible with the Covenant. This would exclude charges related to blasphemy from those for which the death penalty can be imposed under international law.

We also wish to remind your Excellency's Government to guarantee Ms. Bibi's right not to be deprived arbitrarily of her liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the UDHR and articles 9 and 14 of the ICCPR. Further, article 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty provides that "Capital punishment may only be carried out pursuant to a final judgment rendered by a competent court after a legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the ICCPR, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings." Only full respect for stringent due process guarantees distinguishes capital punishment as possibly permitted under international law from a summary execution.

We would also like to appeal to your Excellency's Government to ensure the right to freedom of religion or belief of Ms. Bibi in accordance with article 18 of the UDHR and of the ICCPR. Furthermore, Mr. Abdelfattah Amor's country visit report on Pakistan also stated that "applying the death penalty for blasphemy appears disproportionate and even unacceptable" (see E/CN.4/1996/95/Add.1, para. 82).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org, or can be provided upon request.

In view of the urgency of the matter and of the irreversibility of the punishment of the death, we would appreciate a response as soon as possible on the initial steps taken by your Excellency's Government to safeguard the rights of Ms. Bibi in compliance with international standards.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information concerning the legal grounds for the arrest and detention of as well as the imposition of the death penalty against Ms. Bibi and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR. Please indicate how the imposition of the death penalty is compatible with the aforementioned "most serious crimes" provision under international human rights law?
3. Please provide detailed information on each stage of the judicial and post-conviction proceedings against Ms. Bibi; and indicate how they comply with the requirement and guarantees of a fair trial and due process under international human rights law.
4. Please provide detailed information on the petition for pardon submitted by Ms. Bibi, including the decision on the petition and the grounds for the decision made. Further, please provide information on any provisions for appeal or pardon from this judicial decision.
5. Please indicate the measures taken by your Excellency's Government in ensuring the right of Ms. Bibi to freedom of religion or belief is respected and protected in accordance to international human rights standards.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions